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17 August 2004

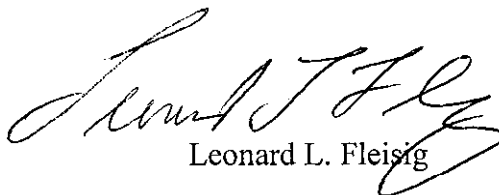
The Honorable Bryant L. Van Brakle  
Secretary  
Federal Maritime Commission  
800 North Capitol Street  
Room 1046  
Washington, D.C. 20573

**RE:   REPLY IN OPPOSITION TO MOTION FOR LEAVE TO FILE JOINT  
SUPPLEMENTAL COMMENTS REQUESTING EXPEDITED ADOPTION  
OF A CONDITION EXEMPTION FROM TARIFF PUBLICATION**

Dear Mr. Van Brakle:

Enclosed for filing please find an original and fifteen (15) copies of the above referenced Reply of Ocean World Lines, Inc.

Sincerely yours,  
TROUTMAN SANDERS, LLP

  
Leonard L. Fleisig

LLF/sm  
Encl.

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**BEFORE THE  
FEDERAL MARITIME COMMISSION**

**Petition of United Parcel Service, Inc.**

**Petition No. P3-03**

**Petition of National Customs Brokers  
And Forwarders Association of America, Inc,  
Petition No. P5-03**

**Petition of Ocean World Lines, Inc  
Petition No. P7-03**

**Petition of Bax Global Inc. for Rulemaking  
Petition No. P8-03**

**Petition of C.H. Robinson Worldwide,  
Inc.**

**Petition No. P9-03**

**Petition of Danzas Corp., et al.  
Petition No. P1-04**

**Petition of BDP International, Inc.  
Petition No. P2-04**

**Petition of FedEx Trade Networks et al.  
Petition No. P4-04**

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**REPLY TO MOTION FOR LEAVE TO FILE JOINT  
SUPPLEMENTAL COMMENTS REQUESTING EXPEDITED ADOPTION  
OF A CONDITIONAL EXEMPTION FROM TARIFF PUBLICATION**

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August 18, 2004

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Counsel for Ocean World Lines, Inc.

**REPLY IN OPPOSITION TO MOTION FOR LEAVE TO FILE JOINT  
SUPPLEMENTAL COMMENTS REQUESTING EXPEDITED ADOPTION  
OF A CONDITIONAL EXEMPTION FROM TARIFF PUBLICATION**

Ocean World Lines, Inc. (“OWL”) is sympathetic with the desire of the National Industrial Transportation League, FedEx Trade Networks Transport & Brokerage, Inc., United Parcel Service, Inc., Transportation Intermediaries Association, BAX Global, Inc. C.H. Robinson Worldwide, Inc., and BDP International, Inc.’s (hereinafter “Movants”) desire to have the Federal Maritime Commission act on the Petitions placed before it. However, the submission of yet another proposal this late in the procedural process seems unlikely to promote the stated objectives of the Movants. OWL, therefore, opposes the Motion.

**1. THE GRANT OF THE MOTION WOULD DELAY RATHER THAN EXPEDITE  
THE COMMISSION’S RESPONSE TO THE PETITIONS BEFORE IT.**

The Movants seek leave to file supplemental comments relating to eight (8) petitions currently before the Commission. If the Commission were to grant the Motion, due process considerations, the Commission’s Rules, and the Administrative Procedures Act would no doubt compel the Commission to re-open the comment period and provide a window of opportunity for the submission of comments in response to the Movant’s proposed supplemental comments. A motion seeking new expedited action seems more likely to delay rather than expedite the process.

Further, the proposed supplemental comments state that “[n]one of the Joint Commenters intends or desires to withdraw its existing petition.” Joint Supplement Comments at fn. 2. This seems to be a dubious procedural position. The joint relief sought differs to varying degrees from the relief requested by the individual petitioners that are parties to this Motion. The

apparent logic behind this dichotomy seems to draw on the fact that Movants seek only interim relief applicable while the Commission crafts a final response to the various petitions before it. If this is, in fact, the case, it is not appropriate from a procedural or administrative point of view to submit supplemental comments in support of petitions Movants do not seek to amend or withdraw as a mechanism to seek new or additional relief. To the extent that the Movants seek relief in the instant motion not coextensive with that sought in their original individual petitions, a new Petition would be the correct approach administratively.

Further, the time and resources required to fashion a grant of interim or conditional relief would further delay final actions on the underlying petitions. Because the position of the Movants appears to have changed from their original petitions, if only temporarily, the time and effort already expended by the Commission and its staff over the last few months would be wasted were it now to deviate to address the new relief requested. The Commission and its staff have expended a great deal of time and energy in reviewing the Petitions now pending. A deviation now, based upon the Movants' evolving proposals, could render moot any work already completed by the Commission in response to the Movants' initial proposals.

## **2. THE MOTION DOES NOT PROVIDE ANY NEW FACTS OR EVIDENCE THAT WARRANT RE-OPENING OF THE COMMENT PERIOD**

The Commission has already had a tremendous amount of facts, opinion, and legal analysis presented to it. The record is voluminous and wide-ranging. The Commission has extended the comment period twice already and has also taken the unprecedented step of allowing *ex parte* communication between interested parties and the Commissioners. The Movants have not adduced any new opinions or legal analyses that have not already been presented to the Commission.

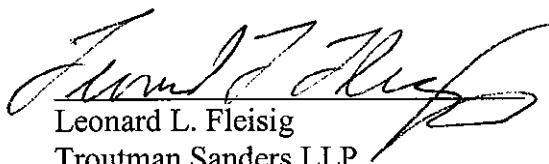
The relief sought by Movants, providing NVOCCS the ability to enter into contracts with shippers and shielding the rates governing those shipments from public view by way of exemption, has essentially been set before the Commission already. *See Petition of Ocean World Lines, Inc.*, Petition No. P7-03 (Providing NVOCCs with specific authority to enter into ‘special contracts’ and exempting rates filed pursuant thereto from the tariff requirements set out at 46 C.F.R. § 520.9(e)(1)). Other Petitions, including those of the Movants either individually or collectively, seek the substantive relief now sought again by Movants.

The issue of the Commission’s authority to grant or deny the various Petitions before it is very much a legal issue that turns on the Commission’s statutory authority. It is in no way affected by the only new fact cited by Movants – that they have agreed among themselves that they now want the exact same thing. Again, this belies the assertion that the Movants’ positions have not changed since the filing of their individual petitions. The Commission has before it all the facts and opinions it needs to respond to the pending Petitions. Grant of the instant Motion would divert the Commission’s resources and could undo months of work, analysis, and preparation involved in responding to those Petitions.

In summary, grant of the Motion would delay the proceedings unnecessarily by reopening the comment period for Petitions that Movants assert remain unaffected by their new Motion. Further, it would divert the Commission’s attention from providing administrative finality to the petitions already before it by forcing the Commission to create a response to the Movants’ desire for interim relief.

OWL urges the Commission to deny the Motion for Lave filed by Movants.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Leonard L. Fleisig", written over a horizontal line.

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Counsel for  
OCEAN WORLD LINES, INC.  
August 18, 2004

## CERTIFICATE OF SERVICE

I hereby certify that I have on this 17th day of August, 2004, served a copy of the foregoing Reply in Opposition to Motion for Leave for File Joint Supplemental Comments Requesting Expedited Adoption of a Conditional Exemption from Tariff Publication on the following persons listed below via first-class mail, postage pre-paid:

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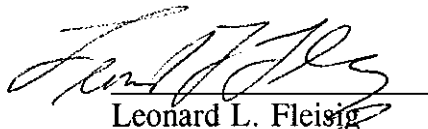
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And on all additional parties of record via either first class mail or electronic mail.

  
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